

Assembly Bill No. 1478

Passed the Assembly August 30, 2012

Chief Clerk of the Assembly

Passed the Senate August 30, 2012

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 530 and 5010.7 of, and to add Sections 535.5, 541.5, and 541.6 to, the Public Resources Code, relating to public resources, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

AB 1478, Blumenfield. State Parks: finances.

(1) Existing law establishes, in the Department of Parks and Recreation, the State Park and Recreation Commission consisting of 9 members appointed by the Governor, subject to confirmation by the Senate. Existing law requires the commission, among other things, to establish general policies for the guidance of the Director of Parks and Recreation in the administration, protection, and development of the state park system.

This bill would establish qualification criteria for the members of the commission, including requiring one member to have demonstrated expertise in cultural or historical resources management. The bill would require the Speaker of the Assembly and the Senate Committee on Rules to each appoint one ex officio legislative member. The bill would require the commission to evaluate and assess the department's deferred obligations. The bill would also authorize the commission to, among other things, conduct an annual workshop to review the department's annual operating budget and proposed capital improvement projects. The bill would appropriate \$120,000 annually in the 2012–13 and 2013–14 fiscal years from the State Parks and Recreation Fund to the commission to perform these activities. The bill would appropriate \$20,500,000 from the State Parks and Recreation Fund to the department for expenditure as specified. The bill would prohibit the department from closing or proposing the closure of a state park in the 2012–13 and 2013–14 fiscal years. The bill would also appropriate \$10,000,000 from the Safe Drinking Water, Water Quality and Water Supply, Flood Control, River and Coastal Protection Bond Act of 2006, to be expended as specified, including for purposes of capital outlay and support for capital outlay projects of a state park.

(2) Existing law requires the department to develop a revenue generation program as an essential component of a long-term sustainable park funding strategy. Existing law requires all revenues generated by the program to be deposited into the California State Park Enterprise Fund, as provided, and spent in a specified way, including allocating 40% of the total amount of revenues generated by a park district to that district, as specified. Existing law requires the department to provide an annual accounting to the Department of Finance and relevant legislative committees of the use of funds from a revolving loan program established by the department. Existing law requires the department to rank proposals and awards for loans based on specified criteria.

This bill would require the program revenue to be available for encumbrance and expenditure until June 30, 2014, and for liquidation until June 30, 2016. The bill would require the incremental revenue generated by the program to be deposited into the State Parks and Recreation Fund, and revenue identified as being in excess of revenue targets established by the department shall be transferred to the California State Park Enterprise Fund, as provided. Among other things, this bill would require that 50% of the total amount of revenues deposited into the California State Park Enterprise Fund generated by a park district be allocated to that district, as specified. This bill would require the department to provide the annual accounting to the Department of Finance and the relevant legislative committees of the use of the revolving loan funds in accordance with the purpose outlined in specified voter-approved bond acts. This bill would include capacity of a project to improve services, park experiences, or both, for park visitors as one of the criteria for ranking a proposal or award of a loan.

(3) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares the following:

(a) The failure of the Department of Parks and Recreation to accurately account for its revenues and its failure to disclose balances in special funds has had numerous negative consequences.

It has undermined public confidence in the department, it has threatened relationships with donors, local governments, and nonprofits that entered or are considering entering into agreements with the department to help keep parks open during this time of decreased General Fund support for the department, and it could make it more difficult to enter into revenue generation activities that depend on increased public support and visitation at California's state parks.

(b) It is the intent of the Legislature to ensure that the appropriate recommendations from all internal and independent audits and investigations are implemented in order to help restore public confidence in the department.

(c) It is further the intent of the Legislature to acknowledge that, despite the failure to disclose balances in special funds, the department is embarking on a new revenue generation program to help alleviate its decreased General Fund support. To that end, the revenues that were collected by the department but which were not disclosed should be used exclusively to help keep parks open and, where appropriate and necessary, to match moneys from third-party donors and partners that entered into agreements with the department to help keep one or more state parks open. These funds should be used to help establish a sustainable, long-term funding strategy. A preference for such funds should be established at parks where donors have contributed nonstate financial resources.

(d) The department has demonstrated that greater public and legislative oversight is necessary. Adjusting the membership of the State Park and Recreation Commission to provide opportunities for experienced and professional experts from qualified organizations with expertise and interest in improving the management and programming within the department is essential. It is equally important to add ex officio legislative members to the commission.

(e) It is further the intent of the Legislature to encourage formation of a multidisciplinary advisory council, including, but not limited to, members of the public, persons with park management expertise, representatives of nonprofit park organizations, and representatives of the private philanthropic community, to conduct an independent assessment and make recommendations to the Legislature and the Governor on future

management, planning, and funding proposals that will ensure the long-term sustainability of the state park system.

(f) It is further the intent of the Legislature that any funding in excess of current fund balances reported in the Governor's Budget within the Off-Highway Vehicle Trust Fund shall be spent according to current law.

SEC. 2. Section 530 of the Public Resources Code is amended to read:

530. (a) There is in the department the State Park and Recreation Commission. The members shall be selected as follows:

(1) Nine members, as follows, shall be appointed by the Governor, subject to confirmation by the Senate.

(A) Three members shall represent the public.

(B) One member shall have demonstrated expertise in cultural or historic resources management.

(C) One member shall have background as a parks professional with experience in local, regional, or national parks or may be a retired state parks employee from the department.

(D) One member shall represent nonprofit or other organizations with statewide policy expertise with the state park system or in operating one or more state parks through operating agreements or other arrangements.

(E) One member shall represent a statewide conservation organization with expertise in the administration or programs of the department.

(F) One member shall have a background in the recreational industry.

(G) One member shall represent a local business community that has significant and beneficial relationships with one or more state parks.

(2) The Speaker of the Assembly and the Senate Committee on Rules shall each appoint one ex officio legislative member.

(b) As appointments are made to the commission after the effective date of the act that amended this section during the 2011–12 Regular Session, the Governor shall ensure that appointments are made in conformance with this section.

(c) If a reference is made to the State Park Commission or Recreation Commission pertaining to a duty, power, purpose, responsibility, or jurisdiction of the State Park Commission or the

Recreation Commission, it shall be deemed to be a reference to and to mean the State Park and Recreation Commission.

(d) The commission chair may appoint committees composed of commission members and the duties of the committees shall include, but not be limited to, those duties set forth in Sections 539 and 540. Findings and recommendations of the committees shall be presented to the commission for consideration and action.

SEC. 3. Section 535.5 is added to the Public Resources Code, to read:

535.5. (a) The commission shall evaluate and assess the department's deferred maintenance obligations. After public notice and at a public hearing, following a presentation by the relevant district superintendent, it may consider the nature and extent, and establish the relative priority, of prospective deferred maintenance projects of the department.

(b) The commission may provide advice to the Governor, the Legislature, and the department on policies, projects, and other matters pertaining to parks, recreation, and public access affecting the state park system.

(c) The commission may conduct an annual workshop or series of workshops to review the department's annual operating budget and proposed capital improvement projects.

(d) The commission may make recommendations to improve visitor services and visitor satisfaction in parks, assess the progress and challenges with regard to the protection of natural, cultural, and historical resources within the state park system, and enhance revenue opportunities across the state park system.

(e) The commission may assist in promoting the state park system and parks and recreational facilities and programs.

(f) The sum of one hundred twenty thousands dollars (\$120,000) annually in the 2012–13 and 2013–14 fiscal years is hereby appropriated from the State Parks and Recreation Fund to the State Park and Recreation Commission for the purpose of funding those activities authorized under this section.

SEC. 4. Section 541.5 is added to the Public Resources Code, to read:

541.5. (a) The department shall not close, or propose to close, a state park in the 2012–13 or 2013–14 fiscal year. The commission and the department shall recommend all necessary steps to establish

a sustainable funding strategy for the department to the Legislature on or before January 1, 2015.

(b) There is hereby appropriated twenty million five hundred thousand dollars (\$20,500,000) to the department from the State Parks and Recreation Fund, which shall be available for encumbrance for the 2012–13 and 2013–14 fiscal years, to be expended as follows:

(1) Ten million dollars (\$10,000,000) shall be available to provide for matching funds pursuant to subdivision (c).

(2) Ten million dollars (\$10,000,000) shall be available for the department to direct funds to parks that remain at risk of closure or that will keep parks open during the 2012–13 and 2013–14 fiscal years. Priority may be given to parks subject to a donor or operating agreement or other contractual arrangement with the department.

(3) Up to five hundred thousand dollars (\$500,000) shall be available for the department to pay for ongoing audits and investigations as directed by the Joint Legislative Audit Committee, the office of the Attorney General, the Department of Finance, or other state agency.

(c) The department shall match on a dollar-for-dollar basis all financial contributions contributed by a donor pursuant to an agreement for the 2012–13 fiscal year for which the department received funds as of July 31, 2013, and for agreements entered into in the 2013–14 fiscal year. These matching funds shall be used exclusively in the park unit subject to those agreements.

(d) The department shall notify the Joint Legislative Budget Committee in writing not less than 30 days prior to the expenditure of funds under this section of the funding that shall be expended, the manner of the expenditure, and the recipient of the expenditure.

SEC. 5. Section 541.6 is added to the Public Resources Code, to read:

541.6. (a) There is hereby appropriated ten million dollars (\$10,000,000) from the Safe Drinking Water, Water Quality and Water Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Division 43 (commencing with Section 75001)) to be expended as follows:

(1) The amount appropriated in this item is available for expenditures for capital outlay and support for capital outlay projects of a state park.

(2) No commitment of funds from this item shall be authorized prior to 30 days after the Department of Parks and Recreation notifies the Joint Legislative Budget Committee and the Department of Finance of the projects to be funded from this section. No funds shall be expended for capital outlay projects without prior approval of the State Public Works Board.

(3) The amount appropriated in this section shall be available for expenditure until June 30, 2015.

SEC. 6. Section 5010.7 of the Public Resources Code is amended to read:

5010.7. (a) The department shall develop a revenue generation program as an essential component of a long-term sustainable park funding strategy. On or before October 1, 2012, the department shall assign a two-year revenue generation target to each district under the control of the department. The revenue target may be amended annually for subsequent years, beginning in the 2015–16 fiscal year. The department shall develop guidelines for districts to report the use of funds generated by the revenue generation program, and shall post information and copies of the reports on its Internet Web site.

(b) The California State Park Enterprise Fund is hereby created in the State Treasury as a working capital fund, and the revenue shall be available to the department upon appropriation by the Legislature, for the expenditures for the purposes specified in this section and shall be available for encumbrance and expenditure until June 30, 2014, and for liquidation until June 30, 2016.

(c) The incremental revenue generated by the revenue generation program developed pursuant to subdivision (a) shall be deposited into the State Parks and Recreation Fund. Revenue identified as being in excess of the revenue targets shall be transferred to the California State Park Enterprise Fund on or before June 1, annually.

(d) Moneys appropriated to the department pursuant to subdivision (b) and Section 5010.6 shall be expended as follows:

(1) (A) The department shall allocate 50 percent of the total amount of revenues deposited into the California State Park Enterprise Fund pursuant to subdivision (c), generated by a park district to that district if the amount of revenues generated exceeds the targeted revenue amount prescribed in the revenue generation program. The revenues to be allocated to a park district that fails to achieve the revenue target shall remain in the fund.

(B) With the approval of the director, each district shall use the funds it receives from the department from the revenue generation program to improve the parks in that district through revenue generation programs and projects and other activities that will assist in the district's revenue generation activities, and the programs, projects, and other activities shall be consistent with the mission and purpose of each unit and with the plan developed for the unit pursuant to subdivision (a) of Section 5002.2.

(2) The department shall use 50 percent of the funds deposited into the California State Park Enterprise Fund pursuant to subdivision (c) for the following purposes:

(A) To fund the capital costs of construction and installation of new revenue and fee collection equipment and technologies and other physical upgrades to existing state park system lands and facilities.

(B) For costs of restoration, rehabilitation, and improvement of the state park system and its natural, historical, and visitor-serving resources that enhance visitation and are designed to create opportunities to increase revenues.

(C) For costs to the department to implement the action plan required to be developed by the department pursuant to Section 5019.92 of the Public Resources Code.

(D) To establish a revolving loan program pursuant to subdivision (e).

(e) (1) The department shall establish a revolving loan program and prepare guidelines establishing a process for those districts that receive moneys under paragraph (1) of subdivision (d) to apply for funds that exceed the amount of funds provided to the districts pursuant to paragraph (1) of subdivision (d). It is the intent of the Legislature that the revolving loan program fund only those projects that will contribute to the success of the department's revenue generation program and the continual growth of the fund over time. Districts may apply for funds for capital projects, personnel, and operations that are consistent with this subdivision, including the costs of preparing an application. The department shall provide an annual accounting to the Department of Finance and the relevant legislative committees of the use of those funds in accordance with the purposes outlined in Proposition 40 (the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Bond Act of 2002 (Chapter 1.696 (commencing

with Section 5096.600) of Division 5) and Proposition 84 (the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Division 43 (commencing with Section 75001))), voter-approved bond acts.

(2) The guidelines prepared pursuant to paragraph (1) shall require that applications for funding include all of the following:

(A) A clear description of the proposed use of funds, including maps and other drawings, as applicable.

(B) A market analysis demonstrating demand for the project or service.

(C) The projected lifespan of the project, which must be at least 20 years for a proposed capital project.

(D) A projection of revenues, including the specific assumptions for annual income, fees, occupancy rates, pricing, and other relevant criteria upon which the projection is based.

(E) A projection of costs, including, but not limited to, design, planning, construction, operation, staff, maintenance, marketing, and information technology.

(F) The timeframe for implementation, including all necessary reviews and permitting.

(G) The projected net return on investment of the life of the project.

(H) Provisions providing for mandatory reporting on the project by districts to the department.

(f) The department shall rank all of the proposals and award loans for projects or other activities to districts based on the following criteria, as well as other considerations that the department considers relevant:

(1) Return on investment.

(2) Length of time for implementation.

(3) Length of time for the project debt to be retired.

(4) Percentage of total project costs paid by the district or by a source of matching funds.

(5) Annual operating costs.

(6) Capacity of project to improve services or park experiences, or both, for park visitors.

(g) The funds generated by the revenue generation program shall not be used by the department to expand the park system, unless there is significant revenue generation potential from such an expansion.

(h) Notwithstanding Section 5009, moneys received by the department from private contributions and other public funding sources may also be deposited into the California State Park Enterprise Fund for use for the purposes of subdivision (c) and subdivision (d).

(i) The department shall provide all relevant information on its Internet Web site concerning how the working capital funds are spent, including the guidelines and the department's ranking criteria for each funded loan agreement.

(j) A project agreement shall be negotiated between the department and a park unit and the total amount of requested project costs shall be allocated to the district as soon as is feasible when the agreement is finalized.

(k) The department may recoup its costs for implementing and administering the working capital from the fund.

SEC. 7. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

Approved _____, 2012

Governor